UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,082	07/22/2003	Gary William Flake	5598/9	9457

			EXAMINER
29858	7590	11/28/2006	CHARLES, DEBRA F

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ART UNIT	PAPER NUMBER
3691	

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/625,082	FLAKE ET AL.
	Examiner	**Art Unit**	
	Debra F. Charles	3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>25 May 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1 and 4-40</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1 and 4-40</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 08-06)   Office Action Summary   Part of Paper No./Mail Date 20061122

As per the attorney's call to this agency, the previous final rejection has

been withdrawn.

Response to Amendment

1. Claims 1, 32, 35, and 36 have been amended. Claims 2 and 3 have

been cancelled. Claim 40 has been added.

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the second paragraph of 35 U.S.C.

112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

2.   Claims 1, 7,9,10,20-24, 28-40 rejected under 35 U.S.C. 112, second

paragraph, as being indefinite for failing to particularly point out and

distinctly claim the subject matter which applicant regards as the invention.

Terms "one or more" are indefinite.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the

basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1,4,9,10,11,12,13,14,15, 20, 21,25, 28,29,30, 31, 33, 34 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rubinstein(U.S.PAT. 5794233A), Laage et al.(U.S.PUB. 2002/0138445A1) and Dissly et al. (U.S. PAT. 4276597A).

Re claim 1: Rubinstein disclose a method for allowing transactions in instruments, the method comprising defining a set of one or more term-based concepts, each of the concepts comprising a set of one or more terms, the terms being usable in computerized searches(Abstract, col. 3, lines 1-45), and

each of the concepts being capable of being valued based on a set of one or more parameters(col. 6, lines 50-67).

Rubinstein disclose(s) the claimed invention except allowing transactions in a set of one or more instruments. However, in Abstract, para. 0070, 0071 thereof, Laage et al. disclose(s) an instrument for a transaction. It would be obvious to one of ordinary skill in the art to modify the invention of Rubinstein based on the teachings of Laage et al. The motivation to

combine these references is to enhance the effectiveness and efficiency of

transactions based on terms that combine to equal a concept.

Both Rubinstein and Laage et al. fail to teach at least in part on a utilization of the associated one or more concepts by one or more participants to locate information through the computerized searches. However, Dissly et al. does teach Each array of the retrieval file corresponds to a particular predetermined identifiable characteristic of language structure potentially present in or associated with the set of records concerned and each element in such an array corresponds to and is representative of the address or location of a particular one of the records in the base data file. The elements are binary coded to represent the presence or absence of the predetermined identifiable characteristics of language structure associated with that particular array in the corresponding record. Furthermore, the set of predetermined identifiable characteristics is itself chosen, in one exemplary embodiment, to represent the alphabetic value and relative sequential location of information characters in associated groups of characters such as words contained in the records. In this manner, the retrieval file itself represents an irreversible information compression of the language structure and/or information contained in the set of information bearing records. To locate any particular desired record, the retrieval file is first searched by identifying and selecting those arrays representing desired predetermined identifiable characteristics of language structure and comparing the binary values of respectively corresponding elements in the selected arrays thus identifying which records in the base data file have all the desired predetermined identifiable characteristics of language structure. Once the desired records in the base data file have been identified in this manner, they are then selected and displayed, copied, etc., as desired to provide the requisite access or retrieval of information that had previously been stored in the base data file. Particular choices and variations in the selection of the set of predetermined identifiable characteristics of language structure to be represented by the arrays in the retrieval file will change the search and retrieval characteristics, capabilities, flexibility, etc., of the system as may be desired for particular types of record sets and particular types of base data file formats(Abstract, cols. 1-2).

Therefore, it would have been obvious to one of ordinary skill in the art the time the Applicant's invention was made to modify the teachings of Rubinstein and Laage et al. to include the step of Dissly et al. The motivation to combine these references is to expedite search processing.

Re claim 4: Rubinstein disclose(s) defining each of the concepts such that each of the terms of the concept relates to a theme(Abstract, col. 3, lines 1-45).

Re claim 11: Rubinstein disclose defining each of the concepts such that each of the terms comprises at least one of a character, a character string, a letter, a word, a phrase, an abbreviation, a sentence, and a symbol(Abstract, col. 3, lines 1-30, col. 7, lines 1-20, col. 8, lines 1-40, col. 13, line 55-col. 14, line 15).

Re claims 12 and 13: Rubinstein disclose defining terms by manual selection(col. 3, lines 1-30, col. 9, lines 10-20), and defining terms using a computer algorithm(col. 8, lines 60-67).

Re claims 14 and 15: Rubinstein disclose comprising defining terms using at least one of a clustering algorithm, a machine learning algorithm, an

automatic naming algorithm, and an artificial intelligence-based algorithm. And comprising defining terms using a combination of manual selection and use of a computer algorithm(col. 8, lines 60-67).

Re claims 9,10 and 25: Rubinstein disclose(s) the claimed invention except buying and selling of one or more of the instruments by users of the networked computer system and allowing transactions including exchanging one or more of the instruments for value; and denominating the payoff of one or more of the instruments in at least one of money, currency, fake money, fake currency, game money, game currency, coupons, credits, discounts, certificates, goods, services, and rights. However, in Abstract, para. 0070, 0071 thereof, Laage et al. disclose(s) an instrument for a transaction, and where the instrument is money. It would be obvious to one of ordinary skill in the art to modify the invention of Rubinstein based on the teachings of Laage et al. The motivation to combine these references is to enhance the effectiveness and efficiency of transactions based on terms that combine to equal a concept.

Re claims 20 and 21: Rubinstein disclose valuing concepts based on parameters associated with use of terms of the concept as search terms in one or more search engines or search portals. And comprising valuing a concept based on values of one or more measures of future economic value of at least one of the concept and one or more terms of the concept(Abstract, col. 18, lines 40-col. 19, lines 20 and claim 8, where economic value is determined by the statistical probability that the query will create a match).

Re claims 28, 29, 30, 31: Rubinstein disclose obtaining the one or more terms from a set or one or more terms obtained from a search engine system. And obtaining the one or more terms from a set of one or more search terms used in one or more computerized searches.

And selecting the one or more terms from a set of one or more search terms used in one or more computerized searches. And comprising deriving the one or more terms from a set of one or more search terms used in one or more computerized searches(Abstract, col. 5, lines 35-65, col. 6, lines 30-67).

Re claim 33: Rubinstein disclose a networked computer system (col. 7,

lines 35-67)the system comprising:

one or more client computers connectable to a network (col. 7, lines 35-67),

and one or more server computers, connectable to the network(col. 7, lines

35-67), each of the concepts comprising a set of one or more

terms(Abstract, col. 3, lines 1-45), the terms being usable in computerized

searches, and each of the concepts being capable of being valued based

on a set of one or more parameters(col. 6, lines 50-67).

Rubinstein disclose(s) the claimed invention except allowing transactions in

a set of one or more instruments for facilitating transactions in instruments

using the client computers, each of the instruments being associated with

one or more concepts. However, in Abstract, para. 0070, 0071 thereof,

Laage et al. disclose(s) an instrument for a transaction, a network for

transactions, and financial instruments associated with one or more ideas.

It would be obvious to one of ordinary skill in the art to modify the invention

of Rubinstein based on the teachings of Laage et al. The motivation to

combine these references is to enhance the effectiveness and efficiency of

transactions based on terms that combine to equal a concept.

Re claim 34: Rubinstein discloses the claimed invention except one or more databases connectable to the network, for storing information relating to the concepts, the financial instruments, and the parameters. However, in Abstract, para. 0072, thereof Laage et al. disclose databases and financial instruments. It would be obvious to one of ordinary skill in the art to modify the invention of Rubinstein based on the teachings of Laage et al. The motivation to combine these references is to enhance the effectiveness and efficiency of transactions based on terms that combine to equal a concept.

8.   Claims 5, 6, 7, 8, 17, 18, 19, 22, 23, 24, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rubinstein, Laage et al. and Dissly et al. as applied to claim 1 above, and further in view of Davis et al.

Re claims 5,6,7 and 8: Rubinstein, Laage et al. and Dissly et al. disclose(s) the claimed invention except an advertising value, based on Pay-for-performance data, based on one or more measures of demand for the concept as a search-based advertising vehicle, and clicks in a pay per click search-based advertising system. However, in Abstract, col. 4, line 60-col.

5, line 35, col. 6, line 35-col. 7, line 15, thereof Davis et al. disclose pay-for-

performance data along with pay per click data, and advertising on the

web. It would be obvious to one of ordinary skill in the art to modify the

invention of Rubinstein, Laage et al. and Dissly et al. based on the

teachings of Davis et al. The motivation to combine these references is to

enhance the effectiveness and efficiency of responses to advertising on the

web.

Re claims 17, 18, 19, 22, 23, 24, 26 and 27: Rubinstein and Laage et al.

disclose(s) the claimed invention except allowing betting transactions,

wherein bets relate to present or future values of concepts; allowing betting

transactions including at least one of odds bets, line bets, and pari-mutuel

bets; and basing a payoff value of a bet on at least one of a future value of

the concept and a demand associated with the bet. And valuing a concept

based on Internet pay per click auction data relating to one or more terms

of the concept, the Internet pay per click auction data comprises at least

one of total revenue generated over a period of time for one or more terms,

average revenue over a period of time for one or more terms, median

revenue over a period of time for one or more terms, and a median clicked

price. One or more measures relate to at least one of advertising data,

business data, and consumer data. However, in the Abstract, col. 5, lines

1-col. 6, line 35, thereof Davis et al. disclose a bidding situation along with

the pay-for-performance, click data, revenue generated, and advertising

data. It would be obvious to one of ordinary skill in the art to modify the

invention of Rubinstein, Laage et al. and Dissly et al. based on the

teachings of Davis et al. The motivation to combine these references is to

enhance the effectiveness and efficiency of responses to advertising on the

web.

9.   Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable

over Rubinstein, Laage et al. and Dissly et al. as applied to claim 1 above,

and further in view of Conklin et al.(U.S.PUB. 2002/0091621A1).

Re claim 16: Rubinstein, Laage et al. and Dissly et al. disclose(s) the

claimed invention except allowing transactions in instruments that are or

are modeled after financial securities. However, in the Abstract, para.

0009, 0010 thereof, Conklin et al. disclose transactions in instruments

modeled after a financial security. It would be obvious to one of ordinary skill

in the art to modify the invention of Rubinstein, Laage et al. and Dissly et al.

based on the teachings of Conklin et al. The motivation to combine these

references is to enhance the effectiveness and efficiency of transactions in

financial instruments.

10. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Rubinstein, Laage et al. and Davis et al.

Re claim 32: Rubinstein disclose a method for allowing transactions in

instruments on a networked computer system(col. 7, lines 35-67), the

method comprising:

defining a set of one or more term-based concepts(Abstract, col. 3, lines 1-

45), each of the concepts comprising a set of one or more terms

determined using one or more computer algorithms(col. 8, lines 60-67), the

terms being usable in computerized searches(Abstract, col. 3, lines 1-45),

and each of the concepts being capable of being valued based on a set of

one or more parameters(col. 6, lines 50-67) and using the networked

computer system(col. 7, lines 35-67), and each of the instruments

being capable of being valued based on the value of the associated one or

more concepts(Abstract, col. 3, lines 1-30, col. 7, lines 1-20, col. 8, lines 1-

40, col. 13, line 55-col. 14, line 15).

Rubinstein disclose(s) the claimed invention except allowing transactions in

a set of one or more instruments, each of the instruments being associated

with one or more of the concepts. However, in Abstract, para. 0070, 0071

thereof, Laage et al. disclose(s) an instrument for a transaction. It would be

obvious to one of ordinary skill in the art to modify the invention of

Rubinstein based on the teachings of Laage et al. The motivation to

combine these references is to enhance the effectiveness and efficiency of

transactions based on terms that combine to equal a concept.

Rubinstein and Laage et al. disclose(s) the claimed invention except for

determining an advertising value of each of the concepts. However, in

Abstract, col. 4, line 60-col. 5, line 35, col. 6, line 35-col. 7, line 15, thereof

Davis et al. disclose pay-for-performance data along with pay per click

data, and advertising on the web. It would be obvious to one of ordinary

skill in the art to modify the invention of Rubinstein and Laage et al. based

on the teachings of Davis et al. The motivation to combine these references

is to enhance the effectiveness and efficiency of responses to advertising on

the web.

11. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Rubinstein and Laage et al.

Re claim 35: Rubinstein disclose a computer usable medium storing

program code which(Fig. 4, items 403, 404 and 405), when executed on a

computerized device(col. 7, lines 35-67), causes the computerized device

to execute a method for defining a set of one or more concepts, each of the

concepts comprising a set of one or more terms, the terms being usable in

computerized searches, and each of the concepts being capable of being

valued based on a set pf one or more parameters, and using the networked

computer system, each of the instruments being associated with one or

more of the concepts(Abstract, col. 3, lines 1-30, col. 7, lines 1-20, col. 8,

lines 1-40, col. 13, line 55-col. 14, line 15).

Rubinstein disclose(s) the claimed invention except allowing transactions in

a set of one or more instruments and each of the instruments being

capable of being valued based on the value of the associated one or more

concepts. However, in Abstract, para. 0070, 0071 thereof, Laage et al.

disclose(s) an instrument for a transaction. It would be obvious to one of

ordinary skill in the art to modify the invention of Rubinstein based on the

teachings of Laage et al. The motivation to combine these references is to

enhance the effectiveness and efficiency of transactions based on terms that

combine to equal a concept.

12.   Claims 36 – 39 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Laage et al. and Rubinstein.

Re claim 36: Laage et al. disclose in a computerized system for allowing

transactions in instruments, the instruments being capable of being valued

based on values of term-based concepts(Abstract, para. 0070, 0071).

Laage et al. disclose(s) the claimed invention except terms of the concepts

being useable in computerized searches, a method for determining terms

of a term-based concept, the method comprising: determining a label for

the concept, and determining a set of one or more terms of the concept;

wherein at least one of determining the identifying label and determining a

set of one or more terms is performed with one or more computer

algorithms. However, in the col. 7, lines 35-67, Abstract, col. 3, lines 1-45,

col. 8, lines 60-67, col. 6, lines 50-67, Abstract, col. 3, lines 1-30, col. 7,

lines 1-20, col. 8, lines 1-40, col. 13, line 55-col. 14, line 15, thereof

Rubinstein discloses word-related searches based on concepts in a

network environment. It would be obvious to one of ordinary skill in the art to

modify the invention of Laage et al. based on the teachings of Rubinstein.

The motivation to combine these references is to enhance the effectiveness

and efficiency of transactions based on terms that combine to equal a

concept.

Re claims 37, 38 and 39: Laage et al. disclose(s) the claimed invention

except wherein the one or more computer algorithms determine the label,

one or more computer algorithms determine the one or more terms, and

computer algorithms comprise at least one of a clustering algorithm, a

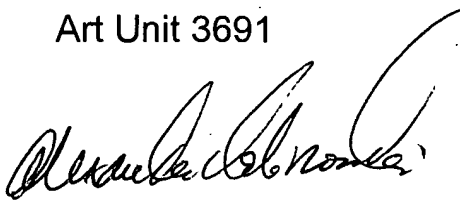machine learning algorithm, and an artificial intelligence algorithm.

However in col. 8, lines 60-67, Rubinstein discloses algorithm. It would be

obvious to one of ordinary skill in the art to modify the invention of Laage et

al. based on the teachings of Rubinstein. The motivation to combine these

references is to enhance the effectiveness and efficiency of transactions

based on terms that combine to equal a concept.

Any inquiry concerning this communication or earlier communications

from the examiner should be directed to Debra F. Charles whose telephone

number is (571) 272 6791. The examiner can normally be reached on 9-5

Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Alexander G. Kalinowski can be reached on (571)

272 6771. The fax phone number for the organization where this

application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained

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USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-

1000.

Debra F. Charles
Examiner
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ALEXANDER KALINOWSKI
SUPERVISORY PATENT EXAMINER